PUBLIC HEALTH COUNCIL

Meeting of the Public Health Council, Tuesday, November 21, 2000, 10:00 A.M., Massachusetts Department of Public Health, 250 Washington Street, Floor 2, Boston, Massachusetts. Present were: Dr. Howard K. Koh (Chairman), Dr. Clifford Askinazi, Ms. Phyllis Cudmore, Mr. Manthala George Jr., Ms. Shane Kearney Masaschi, Mr. Albert Sherman, Ms. Janet Slemenda (arrived late at 10:35 a.m.), Dr. Thomas Sterne; and Mr. Benjamin Rubin absent. Also in attendance was Ms. Donna Levin, General Counsel.

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Chairman Koh announced that notices of the meeting had been filed with the Secretary of the Commonwealth and the Executive Office of Administration and Finance, in accordance with the Massachusetts General Laws, Chapter 30A, Section 11A 1/2.

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The following members of the staff appeared before the Council to discuss and advise on matters pertaining to their particular interests: Ms. Jean Flatley McGuire, Director, Bureau of HIV/AIDS; Mr. Andrew Fullem, Director, AIDS Surveillance Program; Mr. Paul Jacobsen, Deputy Commissioner, Dept. of Public Health; Dr. Paul Dreyer, Director, Division of Health Care Quality; Ms. Nancy Ridley, Assistant Commissioner, Bureau of Health Quality Management; Ms. Joyce James, Director, Ms. Holly Phelps, Consulting Analyst, Determination of Need Program; and Attorneys Madeline Piper, Tracy Miller, and Carl Rosenfield, Deputy General Counsels, Office of the General Counsel.

RECORDS OF THE PUBLIC HEALTH COUNCIL MEETING OF JULY 18, 2000:

Records of the Public Health Council Meeting of July 18, 2000 were presented to the Council for approval. After consideration, upon motion made and duly seconded, it was voted: unanimously [Ms. Slemenda not present to vote] to approve the records of Public Health Council Meeting of July 18, 2000.

PERSONNEL ACTIONS:

In a letter dated November 3, 2000, Blake Molleur, Executive Director, Western Massachusetts Hospital, Westfield, recommended approval of reappointments to the affiliate medical and consulting staff of Western Massachusetts Hospital. Supporting documentation of the appointees' qualifications accompanied the recommendation. After consideration of the appointees' qualifications, upon motion made and duly seconded, it was voted (unanimously)[Ms. Slemenda not present to vote]: that, in accordance with the recommendation of the Executive Director of Western Massachusetts Hospital, under the authority of the Massachusetts General Laws, Chapter 17, Section 6, the following

reappointments to the affiliate medical and consulting staff of Western Massachusetts Hospital be approved:

REAPPOINTMENTS	**SPECIALTY/STATUS**	**MEDICAL LICENSE NO.**
Patel, Vijay, M.D.	Internal Medicine/Geriatrics/Affiliate	81270
Juliette, Ochola, DDS	Dentistry/Consultant	19020

In letters dated November 2, 2000, Katherine Domoto, M.D., Associate Executive Director for Medicine, Tewksbury Hospital, Tewksbury, recommended approval of the appointment and reappointments to the provisional consultant and active medical staffs of Tewksbury Hospital. Supporting documentation of the appointees' qualifications accompanied the recommendation. After consideration of the appointees' qualifications, upon motion made and duly seconded, it was voted (unanimously)[Ms. Slemenda not present to vote]: that, in accordance with the recommendation of the Associate Executive Director for Medicine of Tewksbury Hospital, under the authority of the Massachusetts General Laws, Chapter 17, Section 6, the following appointment and reappointments to the provisional consultant and active medical staffs of Tewksbury Hospital be approved for a period of two years beginning November 1, 2000 to November 1, 2002:

APPOINTMENT	**STATUS /SPECIALTY**	**MEDICAL LICENSE NO.**
Alex Flores, M.D.	Provisional Consultant/ Internal Medicine	59316
REAPPOINTMENTS	**STATUS/SPECIALTY**	**MEDICAL LICENSE NO.**
Teresita Buenaventura, M.D.	Active/Internal Medicine	40549
William Straub, MD	Active/Internal Medicine	29921
Robert Welch, M.D.	Active/Psychiatry	60318

In a letter dated November 13, 2000, Robert D. Wakefield, Jr., Executive Director, Lemuel Shattuck Hospital, recommended approval of the appointments and reappointments of physicians to the medical staff of Lemuel Shattuck Hospital, Jamaica Plain. Supporting documentation of the appointees' qualifications accompanied the recommendation. After consideration of the appointees'qualifications, upon motion made and duly seconded, it was voted (unanimously)[Ms. Slemenda not present to vote]: That, in accordance with the recommendation of the Executive Director of Lemuel Shattuck Hospital, under the authority of the Massachusetts General Laws, Chapter 17, Section 6, the following appointments and reappointments to the medical staff of Lemuel Shattuck Hospital be approved:

APPOINTMENTS	**STATUS/SPECIALTY**	**MEDICAL LICENSE NO.**
Robert Bert, MD	Consultant/Radiology	151528

James Burch, M.D.	Consultant/Radiology	154995
Robert Sarno, M.D.	Consultant/Radiology	33484

Shattuck continued

REAPPOINTMENTS	**STATUS/SPECIALTY**	**MEDICAL LICENSE NO.**
Salah Alrakawi, M.D.	Active/Internal Medicine	157787
Cary Canoun, M.D.	Consultant//Plastic Surgery	156563
Maryann Carrazza, D.M.D.	Active/Dental	14610
Albert Franchi, M.D.	Consultant/Orthopedics	49738
Alan Hackford, M.D.	Consultant/Surgery	49227
John Jameson, M.D.	Active/Otolaryngology	72421
Leonid Kotkin, M.D.	Consultant/Urology	151270
Joseph O'Donnell, M.D.	Consultant/Dental	11340
Thomas Posever, M.D.	Active/Psychiatry	53630
Rochelle Scheib, M.D.	Active/Infectious Disease	58167
Andre St. Germain, DMD	Active/Dental	10608
Gina Terenzi, DMD	Active/Dental	18400

STAFF PRESENTATION:

"HIV AND INJECTION DRUG USE AND HIV IN MASSACHUSETTS: A REVIEW OF SURVEILLANCE DATA AND CLEAN NEEDLE ACCESS INITIATIVES", by Jean Flatley McGuire, Ph.D., Director, AIDS Bureau

Dr. Flatley made the HIV and Injection Drug Use and HIV in Massachusetts presentation to the Council. Some statistics from the slide presentation follow:

- In 1995, 24% of individuals admitted to treatment reported heroin as their primary drug. In 1999, it was 35% and the upward trend has continued in the year 2000.

- Injection as the route of heroin administration also rose during that period from 62% to 66% here in the state, during a time when national treatment statistics indicated a drop in injection as the mode of use.

- In 1995, 24% of individuals admitted to treatment reported heroin as their primary drug. In 1999, it was 35% and the upward trend has continued in the year 2000.

- The recent National Household Survey indicated that for all illicit drugs other than marijuana, Massachusetts residents report slightly higher use rates than the national average at 3.9%.

Nationally, current heroin users are estimated to account for .1% of the total population. In Massachusetts .3% of Massachusetts residents were in treatment for heroin last year - approximately 17, 500 individuals.

- Morbidity and mortality associated with intravenous drug use has in the last 20 years extended considerably because of the role drug injection plays in HIV. Intravenous drug use accounts for 52% of our current HIV and AIDS cases in the state.

- In terms of impact on minority communities, 60% of those living with intravenous drug use related HIV AIDS are black or Latino.

- Twenty-three percent of AIDS cases nationally are among women. Thirty percent of HIV and AIDS cases here in the state are among women. Massachusetts reports a significantly higher rate of primary IDU-related transmission among women than seen nationally.

Dr. Flatley McGuire stated that the Department's definition of needle exchange is the "provision of clean needles in a program-based context that assures access to other preventive and therapeutic care and the safe disposal of dirty needles." She continued, "It is a comprehensive program not just a clean needle. Needle exchange is a proven HIV prevention intervention."

Dr. Flatley McGuire noted that many national organizations support the expansion of needle exchange: the American Medical Association, the American Pharmaceutical Association, the U.S. Conference of Mayors, and many police organizations. In Massachusetts, there are four participating cities. "They have enrolled a total of just under 6,000 clients. They operate in diverse sites such as churches, shelters, mobile vans and community-based organizations. The clients in the needle exchange programs are diverse. Almost 30% are female, over a third are people of color, and most are over the age of 35 years….Thirty percent started injecting before the age of 20, " she said.

Dr. Flatley McGuire continued, "In terms of impact, a major goal of our needle exchange programs is to get individuals into treatment and care. Over the last several years, we have seen a steady increase from about 20% of participants being referred to care to now just under 40% in the most recent data. Almost 70% of those referrals are into a continuum of care, not something that stands apart from the treatment process. Additionally, we have seen improvements in safer needle exposure, which is a significant public health concern. In 1999, 74% of new enrollees gave or threw away their syringes; 94% of our regular needle exchange clients reported getting and exchanging their syringes in the needle exchange site. This is comparable to data that has been reported in other jurisdictions. We are also interested in minimizing the extent of needle sharing. Last year for 87% of needle exchange encounters, the clients reported never sharing their needles. There have been similar improvements reported in other jurisdictions."

Dr. Flatley McGuire noted, "that the needle exchange does not increase the number of improperly discarded syringes, does not increase drug use or the initiation of injection, and neighborhoods with

needle exchange do not see increases in crime. Supporting documentation for these findings has been published both here in the Commonwealth and nationally."

In closing, Dr. Flatley McGuire said, "The Department is committed to expanding access to clean needles. We understand this is an effective HIV prevention intervention…We have made contract amendments available for jurisdictions that wanted to put together a plan for potential approval. We received eight applications. We will be reviewing these and hopefully we will be able to fund all of them on World AIDS day. We are undertaking a targeted media campaign explicitly to expand public understanding and support for clean needle access. We are reviewing the option of physician needle prescribing options. Rhode Island is doing this. And finally, we continue the exploration of decriminalization and deregulation. That is the decriminalization of the possession of needles and other paraphernalia, and the deregulation of the sale of needles. We are the only state in New England that has not adopted these two pieces of legislation, and they have been under consideration in prior sessions of our state legislature…"

Chairman Koh added, "…This is an absolutely critical public health discussion that we are engaging in because we should be at a time now where prevention of HIV in its entirety is reality. And we are not there at all. We still have contaminated needles and syringes in circulation. And all they do is continue to fuel this epidemic and spread suffering. Our primary public health goal here is to remove these contaminated needles and syringes from circulation. By doing so, we prevent people from contracting serious infectious diseases and keep people with addictions free from diseases while they move toward recovery. I have had the pleasure of visiting all the needle exchange sites in the state and meeting the staff. Many of the front line workers are here today; in fact, we recognized them at our DPH day last month. I view our colleagues here at Public Health as real public health heroes in the community in promoting the power of prevention. One of the slides that Dr. McGuire showed that struck me the first time I saw the number was that now we can say that 37% of people coming to needle exchange sites are being linked into services. This is not only a prevention initiative, needle exchange represents the bridge to treatment. It helps people receive very important substance abuse and other services, and helps them toward recovery and toward reaching their full potential for health. As a physician, I know that the medical community feels very strongly about this issue. We heard from them loud and clear about a year ago, and in the months that have passed since then. There is a strong consensus within the physician community that more needs to be done so that we have total prevention of HIV transmission – that involves removing contaminated needles and syringes from circulation."

A brief discussion followed, Chairman Koh asked Mr. Fullem what is the rough estimate of new HIV infection in Massachusetts. Mr. Fullem replied, 650 to 800 in 1999. **NO VOTE/INFORMATION ONLY.**

MISCELLANEOUS: ADOPTION OF THE MAGISTRATE'S RECOMMENDED DECISION AS THE FINAL DECISION OF THE DEPARTMENT IN THE MATTER OF EMERGENCY MEDICAL TECHNICIAN ROBERT E. MILLER:

Attorney Madeline Piper, Deputy General Counsel, Department of Public Health, presented the matter of the emergency medical technician Robert E. Miller to the Council. Attorney Piper said in part, "I come before you today in the matter of the Department of Public Health versus Robert Miller, to request the Commissioner and the Public Health Council to affirm and adopt the recommended decision of Magistrate Joan Freiman Fink as the final decision of the Department. As you know, the Office of Emergency Medical Services certifies all emergency medical technicians in the Commonwealth. This Office is charged with the responsibility and the authority for suspending, revoking and refusing to renew certifications of EMTs who haven't complied with the regulations. In this action, the Office of Emergency Medical Services in November of 1999, immediately suspended and moved to permanently revoke Mr. Miller's EMT certification based on guilty pleas to two counts of assault and battery and six counts of annoying and accosting members of the opposite sex. The victims were Mr. Miller's fifth grade students. The crimes were committed when Mr. Miller was their teacher. The Office of Emergency Medical Services is authorized under 105 CMR 170.940.(e) to revoke the certification of EMTS who commit criminal offenses relating to the performance of the duties of an EMT. The Office of Emergency Medical Services has consistently revoked EMT certification based on crimes such as this, that involve criminal touching, especially when the victims are children. In this case, the criminal touching was against 10 year old girls entrusted to Mr. Miller's care as their teacher.

A hearing was held on July 19, 2000 at the Division of Administrative Law Appeals. Nine witnesses, including Mr. Miller, testified. Various documents, 28 exhibits in all, were offered into the record. The presiding officer, Magistrate Fink, issued a recommended decision in August of 2000. The decision is attached to your memorandum as Exhibit A. In the recommended decision, Magistrate Fink found that Mr. Miller's convictions relate to the performance of the duties of an EMT. She found that an EMT's duties include assessing and rendering treatment to people of all ages; and that an EMT's duties include authorized touching of people who may be sick, injured or unconscious and rendering emergency medical care to children when their parents are not necessarily present; and the Magistrate found that an EMT holds a position of high public trust. Indeed, in her findings, she states that the emergency medical system operates on public trust. She found that Mr. Miller's crimes were an egregious breach of public trust and as such, they jeopardized the health and safety of the public."
Discussion followed whereby the Council Members questioned Attorney Piper. Atty. Piper noted that the crimes of Mr. Miller took place in the 1998 and 1999 school year.

Attorney Diane L. Fernald, representing Mr. Miller addressed the Council. She said, "…If you think about the word child molester, most of us become nauseous in response to those words. And it is my position that this case has been presented to the Department of Public Health and to the Administrative Magistrate as though it were a sexual assault case. The underlying facts were presented in evidence and are available to members of the Council, as they are part of the entire record, which is available to you, as well as a tape of the proceedings. I'm here because Mr. Miller is an EMT of 18 years experience. He began the volunteer program in Westhampton. Several fellow EMTS, community residents, family members, people who use his services are here in the audience today who attended the hearing and submitted affidavits to the Magistrate. You'll see on the petitions in excess of 400 people in Mr. Miller's community, who are aware of his plea to those crimes, and want him to continue providing EMT services in his area. The convictions of assault and battery and annoying and accosting were

presented to the Magistrate in the form of a transcript from the sentencing hearing. Mr. Miller was a teacher of 32 years. In the fall of 1998, particularly in October in terms of dates that you asked about, Mr. Miller was alleged to have held one of his students on his lap. She felt uncomfortable and did not want him to do this. He was described as patting the student on the upper thigh, saying "good job". He was described as placing his hands on students' shoulders in what felt to them like a massaging way saying, "good job". He was described as making these students feel uncomfortable and looked at them in a sexy way. These students, as it came out in the testimony and again, it's part of the record, had been in Mr. Miller's classes, some of them from the first grade. They were well known to him and he to them. There was no evidence of any complaint on behalf of any of the students prior to this, that he was put on notice that they were uncomfortable by this. And that's not offered to you as a way of excuse, because he pled to these allegations. And I would ask you to ask yourselves how you would handle a situation if you woke up in the morning and went out to the morning paper, and found your picture on the front page and below it you were labeled a child molester. And that's what started this case, and there is no evidence of any sexual assault in this transcript or before this Council. But this case has been presented as though it were a child sexual assault case. And as a former prosecutor of hundreds of child sexual assault cases, I will tell you that those allegations are very serious. But you don't have those before you. The cases relied upon by the Department refer to indecent assault and battery. Rape charge. You just don't have that. What you have is behavior that in some instances would be non-criminal. But these children were bothered by it. Mr. Miller stood up in court and said, yes, I did those things. Why did he do that? He testified at the hearing, as did his wife, that after a year of the publicity, the concept of raising more press if it went to trial, putting those students through a trial, students about which he cared, his family about to have a granddaughter, which he wanted to look forward to without this cloud hanging over his head and pled and agreed to the consequences. The consequences were a ten year probation. He turned in his teaching certificate. He reported to his probation officer. Part of the record is that Mr. Miller is a fine probationer. He is an asset to his community. He has a long history of volunteer service and positive contribution. Didn't see any reason why he wasn't going to continue to do that. And, in fact, his probation officer said there was no reason in his opinion, based on the probationary conditions, that he couldn't continue as an EMT."

Attorney Fernald noted that when Mr. Miller received notification of this agency's action, one of the contentions in there was that his certification would be suspended or revoked because it would be a violation of his probation to continue as an EMT. "This was not the case," Attorney Fernald said, "they took this back to the sentencing judge, Judge Curley, where upon he said Mr. Miller could continue as an EMT since there was no objections by the prosecutor of the case." It was noted that Mr. Miller had been evaluated by a therapist, an expert in sex offender cases, Mr. John Newell, who wrote a report for the court that "Mr. Miller was not a risk as a sex offender. And that he saw absolutely no reason why Mr. Miller could not be considered safe in the public and in performing his duties as an EMT," cited Atty. Fernald. Mr. Newell testified to that at the hearing.

Attorney Fernald continued and said in part, "…If Mr. Miller is not a sex offender, why is it that the focus in the Magistrate's findings is that he may remove a child's clothing. Well, of course, if that is necessary for treatment…Mr. Miller has no blemishes on his 18 year record as an EMT. The only reason the Department is moving to revoke this certification is the plea Mr. Miller entered to those

crimes. Those crimes are not sex offenses. He's been determined not to be a public risk. If it is the standard of the Department of Public Health that if you are convicted of these crimes that your certification is permanently revoked, then I would say we are done. That's fair. If you do that with everybody across the state. In the new application for recertification, DPH lists several misdemeanors. Two for which the certification would not be questioned are annoying and accosting and assault and battery…The misdemeanors that Mr. Miller was convicted of. It is important for the Council and the Magistrate to look at what the facts are because you don't have a policy that says if you are convicted of this, no certification," stated Atty. Fernald.

In closing, Atty. Fernald stated, "I would submit that the substantial evidence that is required in a case like this for the Magistrate to find that this action was appropriate was not met. And unless the Department has standards which, say in every instance a person who is convicted of these misdemeanors loses their certification, then Mr. Miller is being singled out. And I would submit to you that he is being singled out because of the emotion and the hysteria that surrounds child molestation. That's how this case started and that is how it's been presented…If you are inclined to take some action against Mr. Miller, I would ask you to look at the range of possibilities. I read the code as saying 'you may'. You don't have too. It doesn't say you shall revoke. It doesn't say you shall suspend. It doesn't say you shall modify. It says that you may. They leave the discretion with you. And I would ask you to exercise that discretion and think about the facts before you, not just the convictions. That that's not sufficient to permanently revoke someone's certification."

Council Member Sherman asked if Mr. Miller understood when he was making this plea that he was at risk to lose his EMT license? Attorney Fernald replied no, it wasn't part of the plea or probation. Council Sherman asked if Mr. Miller retired from the school system. Attorney Fernald replied that Mr. Miller was terminated and that he was required to turn in his teaching certificate as part of the plea. It was noted that there were eight children involved in this case. Discussion continued. Attorney Piper noted, "As Attorney Fernald said, 'There are collateral consequences to guilty pleas.' Under Massachusetts law, a guilty plea is the exact equivalent to a conviction. There is no difference. And there are consequences to that. People, for instance, are deported because they have pled guilty to a crime. And one of the collateral consequences of Mr. Miller's actions is the loss of his EMT certification, whether he pled guilty or not. The Department has the authority to revoke his certification." Council Member Sherman asked what else was in the plea? Attorney Fernald replied, "Basically that he turn in his teaching certificate. That he get the sex offender evaluation. That he be on probation for a period of ten years and that he not be in a supervisory capacity with children."

Attorney Donna Levin, General Counsel for the Department of Public Health clarified to the Counsel, "You have the discretion to amend the tentative decision of the hearing officer…What you have before you is a tentative decision of a hearing officer from the Division of Administrative Law Appeals. The Department's Deputy General Counsel is asking you to approve that. Yes, you have the discretion to change the terms of that. You should think about it in terms of future precedent acts of the Department...You have the authority to amend the decision and to change the sanctions…"

Discussion continued. Council Member Slemenda noted her concern for the children. She said in part, "The one sense I don't get is how the families of the eight children feel about this – it's the crux of the matter here." Ms. Slemenda noted that one of her children is a special needs child and noted that the child would have no way of explaining such a situation to her. Attorney Piper said that the families have filed a civil rights lawsuit in Federal Court in Springfield against Mr. Miller. It was noted that Mr. Miller pled guilty to misdemeaners to save his pension. The plea bargain was that Mr. Miller plea to eight counts of misdemeaners and the felonies got no process. Atty. Piper noted that the grounds for revocation of an EMT certification is in the regulations at 105 CMR 170.940(e). She said, "The regulations state that the Office of Emergency Medical Services is authorized to revoke the certification of EMTs who commit any criminal offense relating to the performance of the duties of an EMT."

Council Member George noted, "I made a motion and it wasn't seconded. It was the recommendation for a permanent revocation. I just want to share with the Council that this man lost his license to teach in the public schools of Massachusetts. That isn't done lightly. That is a serious situation. Somewhere along the line they saw fit to say that he not be allowed to teach in the public schools of Massachusetts. And that's serious. We heard the description of what the charges were. Someone spent a great deal of time investigating this and found he surrendered his license and pled guilty. I can't see how he should be allowed to continue with his license."
After discussion, Council Member George made his motion again and it was seconded.

After consideration, upon motion made and duly seconded, it was voted: (Chairman Koh, Dr. Askinazi, Mr.George, Ms. Kearney Masaschi, Mr. Sherman, and Ms. Slemenda in favor; Ms. Cudmore and Dr. Sterne opposed (Mr. Rubin absent) to approve the **Adoption of the Magistrate's Recommended Decision as the Final Decision of the Department in the Matter of Emergency Medical Technician Robert E. Miller (revoke permanently Robert E. Miller's emergency medical technician certification).** Magistrate Joan Freiman Fink's Tentative/Recommended Decision dated August 21, 2000 states the following findings of fact:

1. The Respondent, Robert E. Miller, d.o.b. 8/23/43, has been a certified EMT since 1983. Additionally, prior to 1999, he had been employed as an elementary school teacher primarily teaching computer skills to fifth grade students.

2. On January 21, 1999, six indictments were returned against the Respondent in the Hampden County Superior Court (indictment numbers 99-185-190) pursuant to M.G.L.c272s.53 **Annoyed and Accosted Persons of the Opposite Sex**.

3. On January 21, 1999, two indictments were returned against the Respondent in the Hampden County Superior Court (indictment numbers 99-181 and 99-183) pursuant to M.G.L.c.265s.13A **Assault and Battery**.

4. On August 26, 1999, the Respondent entered guilty pleas to all eight of the above named charges.

5. All of the above charges related to misconduct including unlawful touching of female students who were enrolled in the Respondent's class at the elementary school where he taught. All of the students were under thirteen years of age.

6. Following the entry of the guilty plea, the Respondent was placed on probation for ten years. Special conditions were attached to this probation, including that the Respondent be evaluated for Sex Offender Counseling and following evaluation be referred to the Hampden County Superior Court Probation Department for treatment and counseling. Additionally, the Respondent was ordered to turn in his teaching certificate and to refrain from teaching as well as to refrain from working in a supervisory capacity. The Respondent was also ordered to refrain from contact with any of the victims (Ex. 3).

7. Upon his plea of guilty, the Respondent was terminated from his teaching employment.

8. In accordance with the terms of the probation, the Respondent was referred to John Newell, a licensed social worker with the MSPCC for a psychosexual evaluation.

9. In early January of 2000, Mr. Newall conducted an evaluation of the Respondent to determine whether he is a risk to commit sexual offenses. Mr. Newell issued a written report dated January 10, 2000 in which he concluded that "based on Mr. Miller's accounts of the offenses, a review of the records, and the known predictors of men with sexual abuse behavioral problems, Mr. Miller continues to make effective use of family and community reports. Mr. Miller does not fit the profile for an "at risk sexual offender" as he falls in the low sexual reoffense group".

10. On June 8, 2000, the Respondent filed a Motion to Clarify and Modify Special Conditions of Probation in the Hampden County Superior Court. The basis of this motion was the Respondent's request to be permitted to continue his activities as an EMT.

11. On June 13, 2000, Justice Thomas Curley, Jr. of the Hampden County Superior Court issued the following order: "Based on the representation that the Commonwealth does not wish to be heard on this matter (which the Commonwealth may dispute by motion to reconsider), the defendant's terms and conditions of probation are modified as requested by the defendant in the last paragraph of this motion.[1] I stress that his modification applies to "the ordinary and usual functions" of any EMT and instructing only adults in emergency techniques".

12. On November 23, 1999, the Petitioner, DPH, issued an Immediate Suspension of Certification as an Emergency Medical Technician and Proposed Permanent Revocation of Certification as an Emergency Medical Technician.

[1] "The defendant would like to continue his EMT activities, including teaching adults and wants clarification that he is not in violation of his probationary conditions if he does so."

13. The Respondent filed a timely request for an adjudicatory hearing on this matter.

Magistrate Freiman Fink's conclusion stated in part, "105 CMR 170.940 (E) provides that the Department of Public Health may suspend, revoke certification or refuse to renew certification of any EMT on the following grounds: commission of any criminal offense relating to the performance of duties including any conviction relating to controlled substance violations. There are no genuine issues of fact in dispute in this case. There is no dispute that the Respondent pled guilty to six counts of annoying and accosting persons of the opposite sex and two counts of assault and battery in the Hampden County Superior Court. In accordance with Massachusetts' law, the entry of a guilty plea constitutes the legal equivalent of a conviction. See Commonwealth v. DeMarco, Jr., 387 Mass. 481, 440 N.E.2nd 1282 (1982)."

The Magistrate said further, "After carefully considering the testimony and evidence presented in this case, I conclude that DPH has demonstrated by a preponderance of the evidence that it acted properly in summarily suspending and in taking action to permanently revoke the Respondent's EMT certification. The crimes that the Respondent committed were against female students in his elementary school class. As such, the Respondent committed an egregious violation of the public trust by breaching the special trust between a teacher and his/her students. At the current hearing, Paul Coffey, the training coordinator and certifier for the DPH, gave credible testimony to the effect that EMTs hold positions of high public trust. The duties of an EMT entail responding to illness or injury of anyone in need (including young females), assessing the medical situation and rendering treatment to obvious injuries. Members of the public have the right to expect its EMTs to be completely and totally trustworthy. Indeed, Mr. Coffey stressed that the 'whole system operates on public trust.' Moreover, Mr. Coffey noted that the EMT is occasionally called upon to assess a child's medical condition in an emergency situation when the parent(s) are not available and by necessity may be required to remove articles of that child's clothing. Under certain circumstances, an EMT is authorized by statute to prevent a parent from accompanying his/her child in an ambulance, see M.G.L.c.111Cs.10A."

The Magistrate also said, "The Respondent through his actions in committing crimes against the children in his class has demonstrated that he is not to be accorded the public trust in dealing with children, especially in exercising the discretionary powers of an EMT as they relate to children. The Respondent's convictions directly relate to the performance of his duties as EMT as specified in 105 CMR 170.940(E). An EMT in making medical evaluations is frequently required to physically touch a patient. I thus conclude that to permit the Respondent to retain his EMT certification would endanger the health and safety of the public."

The Magistrate continued, "The Respondent presented the testimony and affidavits of many friends and colleagues who support him in his desire to retain his EMT certification. The witnesses all testified that in their opinion, Mr. Miller does not pose a threat to children. Although I credit these witnesses' testimony to the effect that they personally view Mr. Miller as a trustworthy individual, nonetheless, I conclude that by committing these crimes Mr. Miller breached his position of special public trust…." [For the record, a petition signed by members of Robert E. Miller's community and colleagues has been submitted to the Council. The petition requested that, "Commissioner Koh and the Council reinstate

Robert Miller's certificate and allow him to continue the valuable work he has done for the Commonwealth of Massachusetts."]

The Magistrate stated, "In conclusion, the DPH has met its burden of proof. The Respondent by pleading guilty to the various crimes as cited in this decision has committed a 'criminal offense relating to the performance of his duties' in violation of 105 CMR 170.940 (E). The DPH has further demonstrated that it did not act in an arbitrary or capricious manner when it exercised its regulatory authority to suspend and issued its notice of intent to permanently revoke Mr. Miller's EMT certification. Accordingly, I recommend that the Department of Public Health revoke the Respondent's certificate #805516 as an Emergency Medical Technician."

INFORMATIONAL BRIEFING ON 105 CMR 124.000: MODEL REGULATIONS FOR BODY ART ESTABLISHMENTS:

Chairman Koh noted, "The first regulations regarding Model Regulations for Body Art Establishments has been stayed by the Superior Court Judge, so we will not be voting on this regulation but we will be hearing information about it from Assistant Commissioner Nancy Ridley."

Ms. Nancy Ridley, Assistant Commissioner, Bureau of Health Quality Management, spoke next to the Council. Ms. Ridley noted that the draft regulations had been sent to the Council Members over the weekend. She noted that the ban on tattooing by other than a licensed physician (on the books since 1962) had been thrown out on the grounds of a constitutional challenge to freedom of expression about a month ago. Ms. Ridley said the National Environmental Health Association (NEHA) has come out in the last two years with a model set of standards. Ms. Ridley said that they intend to propose the adoption of the NEHA standards along with some inclusions of their own for Massachusetts. And lastly, some of the local communities have come up with body piercing standards which are incorporated in the proposed regulations. Ms. Ridley noted further that the proposed regulations set some age restrictions. If you are under 18 years of age you must have parental consent and presence to get body art. Ms. Ridley noted that the proposed regulations are going to public hearing and that they will return to the Council for promulgation at the January 23 meeting. She noted that the Department is creating four forms that they will require: a disclosure form; an after care statement for tattooing and body piercing; a form that requires taking a mini history of certain medical conditions (because people with certain medical conditions should think twice before engaging in an invasive procedure), and a complaint procedure form informing one on how to file a complaint concerning a body art establishment. Ms. Ridley noted that training will be required for the individuals performing these procedures and that there will be a dual permitting type of system with permits required for the establishment and the individual practitioner.

Discussion followed, whereby Council Member Dr. Sterne asked, "What is the logic that excludes the earlobe from this entire body of work, but includes the outer edge of the cartilagineous upper portion of the ear? "Ms. Ridley replied, "In most states and in the national model, the lobe itself has been excluded from coverage under the regulations. And the national model also excludes the cartilagineous

remainder of the ear. For the lobe, there are standard precautions, procedures to follow in terms of piercing of the lobe that can be employed."
Ms. Ridley noted that the Department might want to have a two tier system that puts forth minimum standards for the lobes. However she is interested in hearing the public comments on the matter.

Discussion continued, and the concern of anaphylactic allergic reactions from the red and yellow colors used in body art was mentioned. Some people may be sensitive – one of the reasons DPH is recommending the Disclosure and After Care Forms which note that individuals should consult with their physician or health practitioner. It was noted that the local boards of health would be responsible for enforcing any regulations and that the OSHA blood borne pathogen standards have been applied in the last five years to body piercing and body art as they have in the hospital setting.

NO VOTE/INFORMATION ONLY

REQUEST FOR APPROVAL OF FINAL AMENDMENTS TO 105 CMR 170.000: EMERGENCY MEDICAL SERVICES SYSTEM (APPROVED ON AN EMERGENCY BASIS ON 9/26/00):

Attorney Tracy Miller, Deputy General Counsel, Department of Public Health presented the Emergency Medical Services System Regulations to the Council. Ms. Louise Goyette, Director, Office of Emergency Medical Services, could not be present. Staff noted, "This request is to ask the Council's approval to finalize the emergency amendments to 105 CMR 170.000. The Council approved the emergency regulations on September 26, 2000. These constitute the initial set of regulations to implement the new emergency medical services law, "EMS 2000." They were promulgated on an emergency basis to meet the statute's deadline of September 26, 2000, the effective date of the law. The changes made by the emergency regulations established the appropriate framework to implement the statute, reflected recent changes in practice, and contained language and technical updates. The amendments also reordered and restructured a number of sections of the regulations, to set out regulatory requirements logically and to enhance public understanding. Over the next several years the Department intends to amend the EMS regulations to implement the varied programs outlined in the new law. This process involves a series of working groups to review the law and the needs of the EMS community, and to advise the Department on the development of an adequate regulatory structure. The Department held two public hearings: Tuesday, October 24, 2000 in Springfield, and Monday, October 30, 2000 in Dedham. Written comments were accepted until Monday, November 6, 2000. Oral and/or written comments on the emergency regulations were received from three fire chiefs, the chief of Boston EMS, the directors of the Regional EMS Councils for Regions II, III and IV and the Massachusetts Call/Volunteer Firefighters Association."

Staff provided background information: "On March 30, 2000, the Governor signed into law a comprehensive overhaul of MGLc.111C, governing the state's emergency medical services system, known as "EMS 2000," this legislation is a major expansion and update of the earlier act, which became law in 1973. It clarifies the Department's role as the lead agency for coordinating the statewide EMS system, and gives the Department new and broader authority for doing so. It also requires the

Department to develop a number of new programs and enact regulations for their implementation. For promulgation of the initial set of regulations, the law set a deadline of 180 days from enactment. In order to meet this deadline, the Department promulgated this initial set of regulations on an emergency basis on September 26, 2000. The Department is required to complete the public hearing and any changes within 90 days of September 26, 2000."

After consideration, upon motion made and duly seconded, it was voted unanimously to approve the **Final Amendments to 105 CMR 170.000: Emergency Medical Services System** (which had been approved on an emergency basis on September 26, 2000); that a copy be forwarded to the Secretary of the Commonwealth; and that a copy of the final amendments to 105 CMR 170.000 be attached and made a part of this record as **Exhibit Number 14, 688.**

REQUEST FOR APPROVAL OF EMERGENCY REGULATIONS – 105 CMR 950.000: CRIMINAL OFFENDER RECORD CHECKS:

Mr. Paul Jacobsen, Deputy Commissioner, Department of Public Health, presented the request for Emergency Adoption of 105 CMR 950.000, Criminal Offender Record Checks to the Council. Mr. Jacobsen stated, "…I am here today on behalf of the Department to request the Public Health Council to adopt 105 CMR 950.000, criminal offender record checks, on an emergency basis…These regulations establish a standardized procedure for the Department of Public Health and programs funded by the Department with respect to the review of criminal records of candidates for employment or regular volunteer or training positions. These regulations will require that the Department and any program funded by the Department, request the criminal offender record information for every candidate, and review that information to determine if that individual can or should be hired under the guidelines set forth in the regulations. The regulations are set out in four categories of offenses: mandatory disqualification; 10 year presumptive disqualification; five year presumptive disqualification and discretionary. In the event that a candidate for employment or a volunteer or trainee position has a mandatory disqualification, that candidate will be ineligible for any position that involves potential unsupervised contact with an individual applying for or receiving services from a program funded or operated by the Department. Candidates with five or ten year presumptive disqualification may be eligible for positions involving potential unsupervised client contact, but only after the five or ten year period is past or the candidates probation officer, parole officer or other criminal justice official, or forensic psychiatrist or psychologist concludes in writing that the candidate is appropriate for the position, and that the employer conducts a review to determine that the candidate does not pose a danger to clients. Individuals with discretionary disqualifications may be eligible for positions involving potential unsupervised client contact only after the employer conducts a review to determine the candidate does not pose a danger to clients."

Deputy Commissioner Jacobsen continued, "The Public Health Council is requested to adopt these regulations on an emergency basis so that they will be effective immediately. "The Department of Public Health regards this matter as a priority to protect clients under the care and supervision of agencies within the Executive Office of Health and Human Services (EOHHS) and the programs funded by these agencies. These regulations will be adopted by EOHHS and each EOHHS agency and will replace the

current guidelines, which were issued by EOHHS in 1996. As emergency regulations, these requirements will be immediately applicable to all programs funded or operated by the Department as soon as they are filed with the Office of Secretary of the Commonwealth, which is expected to be by December 1st. These regulations will remain in effect as emergency regulations for a period of 90 days. During this time the Department will hold a public hearing to receive comments, and the regulations will then be reviewed and revised as appropriate, and brought before the Public Health Council for final promulgation."

Deputy Commissioner Jacobsen noted that the EOHHS policy which, has been in effect since 1996, was challenged in April. The case is currently in Superior Court. One of the claims in that lawsuit is that the policy should have been promulgated as regulations pursuant to the State Administrative Procedure Act, Chapter 30A. Mr. Jacobsen said further, "As it currently exists, the EOHHS policy is not enforceable against providers whose contracts do not refer to the EOHHS CORI rule. Further, the policy may be struck down by the court on the basis of the Chapter 30 requirement. Given that the current policy is not enforceable with respect to some programs operated by the Department and some providers and may be declared invalid by the Superior Court in the near future, EOHHS and all the EOHHS agencies will be adopting a revised policy as regulations. In order to ensure that employees providing services are appropriate for these positions, the Department is requesting the emergency adoption of these regulations, which will require the review of criminal records of potential candidates for employment."

Discussion followed, whereby, Council Member Sherman suggested that under the ten year presumptive disqualifications, 105 CMR 950.201, it states "possess a machine gun" – that the phrase should also include "without a license." Deputy Commissioner Jacobsen agreed to add the phrase. For the record, a corrected page was handed out to the Council at the meeting – the page starts with 950.103: CORI Investigations number (3) All CORI investigations that result in a finding of "no record" shall be transmitted back to the hiring authority.

After consideration, upon motion made and duly seconded, it was voted: unanimously to approve the request for **Approval of Emergency Regulations – 105 CMR 950.000: Criminal Offender Record Checks;** that a copy be forwarded to the Secretary of the Commonwealth; and that a copy be attached and made a part of this record as **Exhibit No. 14, 689.** These regulations are effective immediately, as soon as they are filed with the Secretary of the Commonwealth. These regulations will remain in effect as emergency regulations for a period of 90 days. During this time, the Department will hold a public hearing to receive comments. The regulations will then be reviewed and revised as appropriate, and brought before the Public Health Council for final promulgation.

DETERMINATION OF NEED PROGRAM:

COMPLIANCE MEMORANDUM: PREVIOUSLY APPROVED DON PROJECT NUMBER 6-3942 OF NORTH SHORE MEDICAL CENTER – UNION HOSPITAL:

Council Members Dr. Askinazi and Dr. Sterne noted that they recuse themselves from discussion and vote on this matter (Project Number 6-3942).

Ms. Holly Phelps, Consulting Analyst, Determination of Need Program, presented the update on Project Number 6-3942. She said in part, "At its November 19, 1997 meeting, the Public Health Council approved with conditions the transfer of ownership of AtlantiCare Medical Center to North Shore Medical Center and last year at this time, you heard a report on the progress the hospital is making in complying with those conditions. Today at the request of Council, we are back to give you another report on compliance with the conditions. A review of the reports that were sent in by AtlantiCare, which is now known as North Shore-Union Hospital, and the report from the Lynn Health Task Force shows a consistent picture. And if I may say, has an almost harmonious tone, which is in sharp contrast with the original presentation several years ago. This is very exciting to see, and they should be commended for that. The Lynn Health Task Force acknowledged that the hospital was acting in good faith and was making clear commitments. The hospital acknowledged that while there had been a lot of work to date and commitments to be made, that they still had further work to do in addressing some of the conditions. There was a lack of consensus between the task force and the hospital in three areas: free care services, primary care, and mental health and substance abuse. Staff is recommending that the hospital come back in a year to address just those three areas, where there is not a clear consensus between the parties."

Dr. Gary Gottlieb, Acting President and CEO, North Shore Medical Center, addressed the Council. He said in part, "…First, I think the good news is that clearly there have been major efforts to make Union Hospital an extraordinary important part of health care delivery in the North Shore, critically accessible to the patient population of Lynn and the surrounding areas. And to make it really a gemstone in the North Shore Medical Center. I think that the original concerns that we were less interested in keeping this open and in making an investment in it should really be relieved. This is now a thriving piece of the Partners HealthCare System. It's doing quite well and we are making substantial capital investments. As a matter of fact, we want to make the front door immediately accessible to the people of Lynn in a way that is state-of-the-art and consistent with the rest of the system. We broke ground, about a week and a half ago on a new emergency room which is a major capital commitment to the people of Lynn and Union Hospital. We have made similar capital investments in the Lynn Community Health Center. We are working on the areas that were described as being somewhat difficult."

Dr. Gottlieb continued, "I think this is a moment for both pause around the areas in which we have some challenge, and celebration for the progress that we have made. In this health care environment, to see a small community hospital become part of a system and have its identity enhanced, to have its financial performance improved and for its physicians to be doing well and extending more and more care in and around the community within the environment of health care in Massachusetts, is a rare moment – that is truly positive. Similarly, I think to have the kind of partnership, and to some extent, constructive criticism that the Lynn Health Task Force is able to provide is a true asset to being able to plan for community need, to plan for public health need, and to plan a diversity of services that truly meet each of the opportunities that are described…We have made commitments to be able to provide mental

health services - day and evening programs. …" In regard to mental health care, Dr. Gottlieb said that the are trying to figure out how to effectively create integrated behavioral health services on site and adjacent to primary care. That they are looking at different models in health centers that they own and that they will develop the most effective set of services possible in a joint venture with the Lynn Community Health Center and with the Lynn Health Task Force. Dr. Gottlieb noted that there is a proposal to create a mobile addiction service that is under review. Dr. Gottlieb stated that due to their unique nature as a community hospital "comprised of individual entrepreneurs practicing independently in the community with different access to free care pools - the way in which one can both legally and successfully negotiate with private medical staff to have free care services provided are somewhat challenging." Further, he said, "Some providers have cover from larger systems but don't have access to house staff and to the dollars that support those kinds of circumstances."

"In closing, "Dr. Gottlieb said, "…Needless to say, the progress that we have made over the course of these three years relative to what might have been expected, both in the nature of the success of the hospital, as well as the concrete capital and programmatic investments that are substantial – in the millions of dollars – should be seen as a major step of true good faith on the part of the North Shore Medical Center, on the part of the really new and enlivened Union Hospital and its relationship to the Lynn community and Partners Healthcare System."

Ms. Leslie Greenberg, Chairperson, Lynn Health Task Force, addressed the Council. She said in part, "…This year, perhaps more than other years, the importance of the Council's role in this process is the fundamental catalyst for movement on the most difficult issues was dramatically illustrated. And while the Task Force and the hospital have made significant progress on a wide range of issues over the course of the last three years, several of the most important issues and conditions remain largely unaddressed or have failed after early progress. These issues, mental health and substance abuse, primary care expansion, physician services, pharmacy access for the uninsured, and medical transportation presented the most difficult and complex problems and have seen the least progress. It seems that every year major progress is made just before our scheduled review, but we know that we could not achieve similar successes in the future without all of your involvement. Because of this history, we were troubled by the staff report suggesting that your further review should be strictly limited to a small range of issues on which both parties have been able to reach absolutely no meeting of the minds. We strongly urge you not to adopt that suggestion. Our progress has consisted of agreements about future activities and future commitments, but there has been no concrete action yet. It would be a terrible blow to our efforts and to this process if the Council were to adopt the staff recommendations to impose no further accountability whatsoever regarding these many issues. We do appreciate the staff report's concise and careful review of the fundamental agreements reached by the Task Force and the hospital over the last couple of weeks…"

Ms. Greenberg continued, stating that she must clarify staff's report in regard to the commitments made by the hospital to the Task Force. She said that the commitment states that "at least five new primary physicians will be phased-in over the next two years" and that studies done in the areas actually show that need is 10 doctors on the low end and the high range being 30 doctors needed. With respect to mental health clinicians, "the hospital has admitted that thay have not complied with the condition but

have promised that within the next 12 months they will have three FTEs as compared to the 1.4 they have now. And further that at least one FTE will be bilingual," she said. Ms. Greenberg stated that they object to staff's position in regard to compliance with free care services which staff wrote in terms of "best efforts". Ms. Greenberg said that they have suggested an approach that is used at other Partner facilities which is a commitment expected from all of the doctors who practice at the facility to see free care patients – that these physicians be offered contracts to serve these patients that would permit them to be paid for these services, and would permit these patients to have enhanced access to prescription medications. Ms. Greenberg asked, "What is best efforts as the conditions expressly require, if not at least the adoption of the best practices that the same corporate entity uses at its other facilities?" Ms. Greenberg said that DPH staff's report states that this request is extreme. " What is extreme about that?" she said.

In closing, Ms. Greenberg said, "The Task Force maintains that the need for free care patients and the strong effort to provide relevant services to free care users will result in achieving the twin goals of providing needed services to a needy population, while assisting the hospital in achieving their mandated goal of a free gross patient service revenue of 4.24 percent…This year and each year since the merger, the hospital has fallen further and further behind in its free care percentage. And although the hospital claims that it has provided $100,000 more free care this year, it's still only 3.07%, which is far short of the 4.24% in the condition. We believe that the free care percentage is the most crucial obligation under the commitments because it ensures that our community receives adequate services from our public charity hospital through the years, and through changes in hospital ownership. The free care standard is the impetus behind all of the other conditions. As long as we are striving to achieve the 4.24%, we are pushed to examine the gaps in free care services and to add services, such as specialty physician services, mental health and substance abuse and free care pharmacy, as needed. We have seen the success of other providers in boosting their free care participation while they add services. Although our local health center has seen a rise in insured patients, they still continue to enroll free care people in their programs, and also to be able to use their free pharmacy. We think the hospital can do the same…The Task Force would ask the Council to adopt its staff report with the following changes and additions: maintain jurisdiction over the entire set of licensure conditions and require the parties to report on such conditions in twelve months so that the agreements recently made but not yet carried out can be monitored effectively in the future. Recognize the additional agreements made by the hospital and the Task Force not represented in the staff report. Specifically: that at least five new primary care physicians will be established in practice in Lynn over the course of the next two years, and that the mental health clinicians will be increased by a total of 1.6 FTEs, with one being bilingual in the languages needed. And lastly, to reiterate the hospital's obligation under the merger conditions to establish a broad-based system for free care services, physician services and pharmacy services, consistent with the best practices approach taken at all other Partners' facilities and medical practices."

Ms. Holly Phelps explained her approach in writing the staff memorandum to the Council. For the record, Council Member George left the meeting here, during Ms. Phelps's rebuttal at approximately 12:15 p.m..

Attorney Carl Rosenfield, Deputy General Counsel, Department of Public Health clarified things legally for the Council. He said, "I think as a matter of procedure and law, the conditions are the conditions that were voted on by the Council. But within those conditions there is considerable latitude and discretion between the parties as to how those are satisfied. We have heard a couple of requests today. One is that this matter be entertained again in twelve months and that all the conditions would be open for some discussion…We can deal with that. You have also heard the hospital acknowledge and admit that there have been some problems in meeting the obligations that were set in the conditions. I think it is reasonable to allow them to continue that process and to come back and maybe emphasize the examination of those points. But to impose at this stage specific mechanical solutions to these matters that are still outstanding seems to me beyond the scope of what we have done traditionally in reviewing compliance of these conditions. Because you will be talking about imposing a requirement, an amendment to the condition and there's a process laid out for regulations, notice and opportunity to comment. I think you achieve a result by having the parties discuss this and try to resolve these things and to report back periodically in a public way as to the progress that they have made."

For the record, Council Member Sterne, left the meeting here at approximately 12:20 p.m. and therefore did not vote, already having recused himself.

After consideration, upon motion made and duly seconded, it was voted unanimously [The following members did not vote: Dr. Askinazi recused himself, Dr. Sterne recused himself and left before the vote and Mr. George left before the vote] to have **DoN Project No. 6-3942 of North Shore Medical Center- Union Hospital** submit in twelve months an update on its progress in complying with all the conditions of its approval.

COMPLIANCE MEMORANDUM: PREVIOUSLY APPROVED DoN PROJECT NO. 1-3501 OF WESTERN MASSACHUSETTS MAGNETIC RESONANCE SERVICES, INC. – REQUEST TO EXPAND MOBILE MAGNETIC RESONANCE IMAGING SERVICES:

Attorney Donna Levin, General Counsel, recused herself from acting as Counsel for the Public Health Council in this matter of Previously Approved DoN No. 1-3501 of Western Massachusetts Magnetic Resonance Services, Inc. Attorney Carl Rosenfield, acted as the Council's Counsel in this matter.

Ms. Joyce James, Director, Determination of Need Program, presented the request by Project No. 1-3501 of Western Massachusetts Magnetic Resonance Services, Inc. to the Council. She said, "Western Massachusetts Magnetic Resonance Services, Inc. is requesting to reallocate under-utilized capacity from its mobile unit in Wilmington to an additional host site at Athol Hospital, Athol. We recommend approval of this request because we believe it will maximize the utilization of the existing services." It was noted that the mobile MRI services at Athol will be provided under its clinic license at the Hospital's site at least one day per week initially.

After consideration, upon motion made and duly seconded, it was voted (unanimously) [Dr. Sterne and Mr. George not present to vote] to approve the request by **Previously Approved DoN Project No.**

1-3501 of Western Massachusetts Magnetic Resonance Services, Inc. to expand mobile magnetic resonance imaging services. This amendment is subject to the following condition:

1) All conditions attached to the original and amended approval of this project shall remain in effect.

The meeting adjourned at 12:30 p.m.

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Howard K. Koh, M.D., M.P.H.
Chairman

LMH

MINUTES OF THE PUBLIC HEALTH COUNCIL

MEETING OF NOVEMBER 21, 2000

MASSACHUSETTS DEPARTMENT OF PUBLIC HEALTH